



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2015-0267]

RIN 1625-AA00

Safety Zone - Oil Exploration Staging Area in Goodhope Bay;

Kotzebue Sound, AK

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing temporary safety zones in the Port of Goodhope Bay, Alaska, and adjacent U.S. territorial sea on July 1 and October 15, 2015. The temporary safety zones will encompass the navigable waters within a 25-yard radius of moored or anchored offshore exploration or support vessels, and the navigable waters within a 100-yard radius of underway offshore exploration or support vessels. The purpose of the safety zones are to protect persons and vessels during an unusually high volume of vessel traffic in the Port of Goodhope Bay and the adjacent territorial sea due to additional vessel traffic associated with exploratory drilling operations

in the Chukchi and Beaufort seas during the summer of 2015.

DATES: This rule is effective without actual notice from July 10, 2015 until October 15, 2015. For the purposes of enforcement, actual notice will be used from July 1, 2015, until July 10, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2015-0267]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail LT Eugene Chung, Sector Anchorage Prevention, Coast Guard; telephone 907-428-4189, E-mail Eugene.Chung@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

<HD1>Table of Acronyms<EXTRACT>

DHS Department of Homeland Security

FR	Federal Register
NPRM	Notice of Proposed Rulemaking
TFR	Temporary Final Rule</EXTRACT>

#### A. Regulatory History and Information

On May 1, 2015, we published a notice of proposed rulemaking (NPRM) entitled Safety Zones: Oil Exploration Staging Area in Goodhope Bay, Kotzebue Sound, AK in the Federal Register. We received one letter commenting on the proposed rule. No public meeting was requested, and none was held.

#### B. Basis and Purpose

Based on information provided by private entities affiliated with oil exploration activities, the Coast Guard anticipates approximately eleven vessels associated with exploratory drilling operations will call upon the Port of Goodhope Bay, Alaska, en route to proposed drilling sites in the Chukchi and Beaufort. The addition of these vessels in conjunction with the high volume of traffic operating within the Port of Goodhope Bay creates a safety risk for all vessels operating therein. Such risks include reduced ability to navigate safely within the congested waterways of the port during the subject time period.

The vessels and equipment anticipated to be staged within these areas, due to their size and technical complexity, pose a

safety risk to vessels that attempt to navigate too closely to them. Limited rescue capabilities are available in the area. In evaluating whether a safety zone would be appropriate, the Coast Guard explored relevant safety factors and considered several criteria, including, but not limited to: (1) The amount of commercial activity in and around the Port of Goodhope Bay; (2) safety concerns for personnel aboard the vessels; (3) sensitivity of the environment in the region and potential adverse affects caused by a grounding, allision, or collision; (4) the types and volume of vessels navigating in the vicinity of the Port of Goodhope Bay; and (5) the need to allow for lawful demonstrations without endangering the safe operations of support vessels. Vessels transiting in the vicinity of the proposed safety zones could consist of large commercial shipping vessels, fishing vessels, tugs and tows, and recreational vessels. Any group or individual intending to conduct lawful demonstrations in the vicinity of offshore exploration support vessels must do so outside of the temporary safety zones. Results from a thorough and comprehensive examination of the five criteria identified above, in conjunction with International Maritime Organization guidelines and existing regulations, warrant establishment of safety zones to ensure safe and efficient vessel transits within the Port of Goodhope Bay and the adjacent territorial sea. These safety zones will

facilitate safe navigation and protect vessels from hazards caused by increased volume of vessel traffic, including hazards that may be intentionally created, in the Port of Goodhope Bay.

#### <HD1>C. Discussion of Comments and the Final Rule

For the reasons described above, the Coast Guard is finalizing a temporary safety zone due to safety concerns for personnel aboard the support vessels, mariners operating other vessels in the vicinity of Goodhope Bay, and to protect the environment. The regulation will significantly reduce the threat of collisions, allisions, or other incidents which could endanger the safety of all vessels operating on the navigable waters of the Port of Goodhope Bay and the adjacent territorial sea. The Coast Guard is establishing temporary safety zones that will prohibit entry into the zones unless specifically authorized by the Captain of the Port, Western Alaska, or his designated on-scene representative.

The temporary safety zones will encompass the waters within 25 yards of the support vessel if the support vessel is moored or at anchor, and 100 yards if the support vessel is in transit. They are in effect from July 1 through October 15, in order to encompass the expected period of operations.

#### D. Regulatory Analyses

We developed this temporary final rule after considering numerous statutes and executive orders related to rulemaking.

Below we summarize our analyses based on a number of these statutes or executive orders.

#### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The safety zone will have negligible economic impact, as there will be ample room for navigation around it.

#### 2. Impact on Small Entities

This rule is not a significant regulatory action due to the minimal impact this will have on standard vessel operations within the Port of Goodhope Bay because of the limited area affected and the limited duration of the rule. The safety zones are also designed to allow vessels transiting through the area to safely travel around the safety zones without incurring additional costs.

The Regulatory Flexibility Act of 1980 (RFA), (5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during

rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule could affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit through or anchor in within a portion of the Port of Dutch Harbor or adjacent waters, from June 15, 2015 to July 15, 2015.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: These safety zone restrictions are only effective from July 1, 2015 to October 15, 2015, and are limited only to waters within 25 yards of the support vessel if the support vessel is moored or at anchor, and 100 yards if the support vessel is in transit. The Coast Guard will publish a local notice to mariners (LNM) and will issue broadcast notice to mariners (BNM) alerts via marine channel 16 VHF before the safety zone is enforced.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national



government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630,

Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

### 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. Specifically, the rule involves establishing a safety zone, which is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this temporary final rule. An environmental analysis checklist and a categorical exclusion determination are available in the NPRM docket where indicated under Supporting Documents.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways

For the reasons discussed in the preamble, the Coast Guard

amends 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1

2. Add § 165.T17-0267 to read as follows:

§ 165.T17-0267 Safety Zone; Port of Goodhope Bay; Goodhope Bay, Alaska.

(a) Location. The following areas are safety zones:

(1) All navigable waters within a 25-yard radius of a moored or anchored offshore exploration or support vessel, or within a 100-yard radius of any underway offshore exploration or support vessel, located within the Port of Goodhope Bay, to the limits of the U.S. territorial sea.

(2) [Reserved]

(b) Effective date. The temporary safety zones become effective at 12:01 a.m., July 1, 2015, and terminate on 11:59 p.m., October 15, 2015, unless sooner terminated by the Captain of the Port.

(c) Regulations. The general regulations governing safety zones contained in § 165.23 apply to all vessels operating within the area described in paragraph (a).

(1) If a non-exploration or support vessel is moored or anchored and an offshore exploration or support vessel transits near them such that it places the moored or anchored vessel within the 100-yard safety zone described in paragraph (a) of this section, the moored or anchored vessel must remain stationary until the offshore exploration or support vessel maneuvers to a distance exceeding the 100-yard safety zone.

(2) All persons and vessels shall comply with the instructions of the Captain of the Port (COTP) or designated on-scene representative, consisting of commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed by the COTP's designated on-scene representative.

(3) Entry into the safety zone is prohibited unless authorized by the COTP or his designated on-scene representative. Any persons desiring to enter the safety zone must contact the designated on-scene representative on

VHF channel 16 (156.800 MHz) and receive permission prior to entering.

(4) If permission is granted to transit within the safety zone, all persons and vessels must comply with the instructions of the designated on-scene representative.

(5) The COTP, Western Alaska, will notify the maritime and general public by marine information broadcast during the period of time that the safety zones are in force by providing notice in accordance with 33 CFR 165.7.

(d) Penalties. Persons and vessels violating this rule are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: June 3, 2015.

S. D. Montoya,  
Commander, U. S. Coast Guard,  
Acting Captain of the Port, Western Alaska.

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7/10/2015]